

### **REMARKS**

This responds to the Office Action mailed on December 10, 2004.

No claims are amended, no claims are canceled, and no claims are added; as a result, claims 1 – 28 remain pending in this application. Reconsideration is respectfully requested.

#### **35 U.S.C. §102 Rejection of the Claims**

Claims 1, 3-5, 8, 11, 14, 15, 17, 20, 21, 23-25, 27 and 28 were rejected under 35 U.S.C. § 102(e) as being anticipated by Whelan et al. (U.S. 2004/0199798) (herein the “Whelan Application”). Submitted concurrently herewith is an affidavit under 37 C.F.R. § 1.132 made by all the inventors of this patent application (herein the “Booth Application”). The declaration is submitted prior to a final rejection of the Booth Application and establishes that subject matter disclosed but not claimed in the Whelan Application is not the invention “by another” and therefore, the Whelan Application is not a reference under 35 U.S.C. § 102(e).

In view of the above, Applicants submit that the rejection of claims 1, 3-5, 8, 11, 14, 15, 17, 20, 21, 23-25, 27 and 28 under 35 U.S.C. § 102(e) has been overcome, and that claims 1 – 28 are in condition for allowance.

#### **Allowable Subject Matter**

Claims 2, 6, 7, 9, 10, 12, 13, 16, 18, 19, 22 and 26 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 2, 6, 7, 9, 10, 12, 13, 16, 18, 19, 22 and 26 are now believed to be in condition for allowance because, as Applicants have stated above, the rejection of claims 1, 3-5, 8, 11, 14, 15, 17, 20, 21, 23-25, 27 and 28 under 35 U.S.C. § 102(e) is believed to be overcome, and claims 2, 6, 7, 9, 10, 12, 13, 16, 18, 19, 22 and 26 are believed to be allowable at least because of their dependency on the independent claims.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney, Greg Gorrie at (480) 659-3314, or Applicant's below-named representative to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

LAWRENCE A. BOOTH, JR. ET AL.

By their Representatives,

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Date Feb. 8, 2005

By Ann M. McCrackin  
Ann M. McCrackin  
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 9 day of February 2005.

Chris Hammond

Name

Chris Hammond

Signature